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EAST KENTUCKY
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FCC Mail Room

October 17, 2013

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Expanding the Economic Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268

Dear Ms. Dortch:

East Kentucky Network, LLC d/b/a Appalachian Wireless ("EKN") has strong interest but also great concerns about the Commission's plans for incentive auctions to license spectrum in the 600 MHz band. As I will explain, the size of the areas to be licensed in the 600 MHz band will determine whether or not EKN, as a rural wireless carrier, will be able to participate and succeed. EKN strongly supports licensing the 600 MHz band on the basis of Cellular Market Areas ("CMAs"), as opposed to larger geographic licenses like Economic Areas ("EAs").

EKN is a provider of wireless service in the Appalachian Mountains of eastern Kentucky and southwestern Virginia, where it has been licensed for many years and has a longstanding record of serving small and rural communities. Larger national wireless carriers have largely ignored or offered minimal service in the small towns and rural areas that EKN serves. As a result, without EKN's expenditure of resources to build out its wireless network, many of the areas it currently serves would most likely lack any reliable access to wireless voice and high-speed broadband services.

Like consumers and business people throughout the country, EKN's subscribers are relying more and more on access to the wireless voice and broadband services offered by EKN to accomplish everyday tasks that are critical to individuals, businesses and public safety. With this increased demand from its customers also comes an increased need by EKN for spectrum. To meet this demand, EKN continually evaluates its wireless network and its spectrum capacity to determine whether it has sufficient spectrum in the short and long term to satisfy the needs of its customers. To the extent that EKN does not have access to sufficient spectrum, it cannot offer customers the latest advances in wireless services that are available elsewhere in the country, impacting economic growth and community development in EKN's service area.

The favorable propagation characteristics of spectrum in the 600 MHz band are well-known and make it ideal for use in the mountainous areas served by EKN. For EKN and small wireless carriers like EKN, the 600 MHz license auction represents an unusual and possibly

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unique opportunity to obtain access to low-frequency spectrum that will be needed to enhance and expand wireless networks with spectrum that is useful over long distances and can easily penetrate buildings. However, any Commission or industry proposal to license the 600 MHz spectrum on an EA or similar basis is problematic and will directly threaten EKN's ability to compete for the 600 MHz spectrum at auction.

The use of large geographic areas, such as EAs, will effectively exclude EKN from participation in any 600 MHz auction. Specifically, in order to cover the counties within its current service area, EKN would be forced to bid on several large EAs that include areas much more densely populated than areas EKN currently serves. Much like other small regional carriers, EKN simply does not have the financial wherewithal to bid on, and serve, EAs that include cities with populations much larger than the population in areas EKN currently serves. As a result, a decision to use large geographic areas like EAs will foreclose EKN from participating in the 600 MHz auction.

This issue is not unique to EKN. It is an issue for all remaining small and rural wireless carriers as well as for any new entrants that would be interested in serving small communities or rural areas.¹ Rather than using larger geographic areas like EAs, the Commission should use CMAs that can satisfy the needs of both small and large carriers. With CMAs, smaller carriers can more closely align and fine-tune their 600 MHz license purchases with their current and proposed service footprint. At the same time, larger carriers can aggregate and bid on multiple CMAs in order to achieve the larger geographic area that they seek to serve. The end result will be to encourage a larger number of carriers to participate in any 600 MHz auction, thereby leading to higher auction revenues -- a result that is in the public interest for all U.S. taxpayers. As has already been well-documented to the Commission, the use of small geographic license areas played a significant role in the increased auction participation and higher revenues evident in FCC Auction 73 (700 MHz auction).²

The use of smaller geographic license areas, specifically CMAs, is consistent with the directive and eligibility criteria that Congress set out for the Commission to use when spectrum is auctioned. Under the Communications Act, in specifying eligibility for spectrum auctions, the Commission is directed to achieve the objective of "promoting economic opportunity and competition and ensuring that new and innovative technologies are readily accessible to the American people by avoiding excessive concentration of licenses and by disseminating licenses *among a wide variety of applicants, including small businesses, rural telephone companies, and businesses owned by members of minority groups and women.*"³ Use of CMAs for the 600 MHz auction would fulfill this objective.

¹ See, e.g., Letter from Gregory W. Whiteaker (Counsel to Sandhill Communications, LLC) to Marlene H. Dortch, GN Docket No. 12-268 at 1 (Aug. 21, 2013) ("[A]uctioning spectrum on the basis of Economic Areas. . . or other large geographic areas will effectively eliminate participation by small and rural entities, confer a windfall on large wireless carriers, delay the deployment of services to rural areas, and for the incentive auction, likely reduce the amount of spectrum repurposed and revenue generated pursuant to the auction.")

² As the Competitive Carriers Association recently noted, nearly 100 smaller or rural carriers participated in Auction 73. See *Ex Parte* Letter from Rebecca Murphy Thompson, General Counsel, Competitive Carriers Association to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Docket No. 12-69 *et al.* at 2 (filed June 28, 2013).

³ 47 U.S.C. § 309(j)(emphasis added).

An auction of larger geographic license areas like EAs for the 600 MHz band will only favor large national carriers with substantial resources that are seeking a broad footprint for their service. But as the Commission has observed, large national carriers concentrate their attention on large population centers and only slowly, if at all, expand service to the small towns and rural portions of large license areas. By using EAs, carriers like EKN that are focused on smaller rural communities will be placed at a distinct disadvantage since they lack the same financial resources as larger carriers, but will still be forced to bid on license areas that greatly exceed their current footprint. To increase competition in any 600 MHz spectrum auction, the Commission should adopt smaller geographic license areas, specifically CMAs.

EKN appreciates the Commission's consideration of this letter and is available to meet with Commission staff to discuss the importance of using CMAs for the 600 MHz band auction.

Sincerely,

A handwritten signature in cursive script, appearing to read "W A Gillum".

W. Allen Gillum
Chief Executive Officer